

HOUSE

AMENDMENT NO. _____

Offered by

_____ of _____

AMEND House Committee Substitute for Senate Substitute for Senate
Substitute for Senate Committee Substitute for Senate Bills Nos.
556 & 311, Page 24, Section 208.225, Line 37, by inserting after
all of said line the following:

"344.030. 1. An applicant for an initial license shall file a completed application with the board on a form provided by the board, accompanied by an application fee of one hundred dollars payable to the director of revenue. Information provided in the application shall be given under oath subject to the penalties for making a false affidavit.

2. No initial license shall be issued to a person as a nursing home administrator unless:

(1) The applicant provides the board satisfactory proof that the applicant is twenty-one years of age or over, of good moral character and a high school graduate or equivalent;

(2) The applicant provides the board satisfactory proof

Action Taken _____

Date _____

that the applicant has had a minimum of three years' experience in health care administration or two years of postsecondary education in health care administration or has satisfactorily completed a course of instruction and training prescribed by the board, which includes instruction in the needs properly to be served by nursing homes, the protection of the interests of residents therein, and the elements of good nursing home administration, or has presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(3) The applicant passes the [written examination] examinations administered by the board. If an applicant fails to make a passing grade on [the examination] either of the examinations such applicant may make application for reexamination on a form furnished by the board and may be retested [at the next regularly scheduled examination]. If an applicant fails [the examination] either of the examinations a third time, the applicant shall be required to complete a course of instruction prescribed and approved by the board [before the applicant may reapply for examination]. After completion of the board-prescribed course of instruction, the applicant may reapply for board-administered examination. No applicant shall be licensed by the board after the applicant's third licensure

examination failure unless the applicant successfully completes the board-prescribed course of instruction and passes board-administered examinations. With regard to any nationally certified examination required for licensure, no examination scores from other states shall be recognized by the board after the applicant has failed his or her third attempt at examination.

There shall be a separate, nonrefundable fee for each examination. The board shall set the amount of the fee for examination by rules and regulations promulgated pursuant to section 536.021, RSMo. The fee shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the examination.

3. The board may issue a license through reciprocity to any person who is regularly licensed as a nursing home administrator in any other state, territory, or the District of Columbia, if the regulations for securing such license are equivalent to those required in the state of Missouri. However, no license by reciprocity shall be issued until the applicant passes a special examination approved by the board, which will examine the applicant's knowledge of specific provisions of Missouri statutes and regulations pertaining to nursing homes. The applicant shall furnish satisfactory evidence that such applicant is of good moral character and has acted in the capacity of a nursing home administrator in such state, territory, or the District of

Columbia, at least one year after the securing of the license. The board, in its discretion, may enter into written reciprocal agreements pursuant to this section with other states which have equivalent laws and regulations.

4. Nothing in sections 344.010 to 344.100, or the rules or regulations thereunder shall be construed to require an applicant for a license as a nursing home administrator, who is employed by an institution listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., to administer institutions certified by such commission for the care and treatment of the sick in accordance with the creed or tenets of a recognized church or religious denomination, to demonstrate proficiency in any techniques or to meet any educational qualifications or standards not in accord with the remedial care and treatment provided in such institutions. The applicant's license shall be endorsed to confine the applicant's practice to such institutions.

5. The board may issue a temporary emergency license for a period not to exceed ninety days to a person twenty-one years of age or over, of good moral character and a high school graduate or equivalent to serve as an acting nursing home administrator, provided such person is replacing a licensed nursing home administrator who has died, has been removed or has vacated the

nursing home administrator's position. No temporary emergency license may be issued to a person who has had a nursing home administrator's license denied, suspended or revoked. A temporary emergency license may be renewed for one additional ninety-day period upon a showing that the person seeking the renewal of a temporary emergency license meets the qualifications for licensure and has filed an application for a regular license, accompanied by the application fee, and the examination [has not yet been given] results have not been received by the board. No temporary emergency license may be renewed more than one time.

344.050. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of [his] the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to refusal to issue or renew any certificate, registration or authority, permit or license, the board may, at its discretion, issue a license which is subject to probation for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective

and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary license to an applicant for licensure, the applicant may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary license seeking review of whether cause exists to discipline the license pursuant to subsection 2 of this section. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, pursuant

to criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Violation of, or assisting or enabling any person to violate, any provision of chapter 198, RSMo, or any lawful rule

or regulation promulgated thereunder;

(8) Impersonation of any person holding a certificate of registration or authority, permit or license, or allowing any person to use [his] such person's certificate of registration or authority, permit, license or diploma from any school;

[(8)] (9) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

[(9)] (10) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

[(10)] (11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice [under] pursuant to this chapter;

[(11)] (12) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

[(12)] (13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

[(13)] (14) Knowingly failing to report abuse or neglect of a resident in a long-term care facility, as required by section

198.070, RSMo, of which he or she has actual knowledge that it is abuse or neglect;

(15) Violation of any professional trust or confidence.

3. The administrative hearing commission shall have no authority to require issuance of a license, pending a final determination by the commission, in any case in which an applicant is seeking initial licensure.

4. No license may be suspended or revoked and no application for renewal of a license may be denied [under] pursuant to this section until the licensee has been afforded an opportunity for hearing after due notice as provided in sections 621.015 to 621.205, RSMo.

5. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, [place upon probation,] censure or place the person named in the complaint on probation on such terms as the board deems appropriate, or may suspend or revoke [a] the certificate [of registration or authority], permit or license. The board may exclude any reapplication for a period of up to five years.

344.055. 1. The board of nursing home administrators may hold a disciplinary hearing to singly or in combination censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate, or may

suspend or revoke a certificate of registration or authority, permit, or license issued pursuant to sections 344.010 to 344.100 following a review of the record of the proceedings by the board and upon a formal motion of the board:

(1) When the final trial proceedings are concluded where a person has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere whether or not sentence is imposed in a felony criminal prosecution pursuant to the laws of this state, the laws of any other state, territory, or district of the United States, or the United States:

(a) For any felony offense reasonably related to the qualifications, functions, or duties of the person licensed pursuant to sections 344.010 to 344.100; or

(b) For any felony offense for which an essential element is fraud, dishonesty, or an act of violence; or

(c) For any felony offense involving moral turpitude;

(2) Upon the final and unconditional revocation or surrender of the person's license to practice the same profession in another state, territory, or district of the United States upon grounds for which revocation is authorized in this state.

2. The certificate, permit, or license of such person shall be automatically reinstated if the conviction, judgment, or revocation is set aside upon final appeal in any court of competent jurisdiction.

3. Any person who has been revoked or denied a certificate, permit, license, or other authority to practice a profession in another state, if such profession in this state is regulated pursuant to sections 344.010 to 344.100, may automatically be denied a certificate, permit, or license to practice such a profession in this state.

344.056. 1. Notwithstanding any other provisions of law to the contrary and to encourage settlement of disputes between the board of nursing home administrators and its licensees, the board shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated together with copies of any documents which are the basis for which discipline is sought or file a contested case against the licensee as provided in sections 621.015 to 621.205, RSMo, prior to offering the licensee a settlement proposal and provide the licensee with an opportunity to respond to the allegations;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days from the date of mailing during which to consider the board's initial settlement offer and discuss the terms of such settlement offer with the board;

(3) If no contested case has been filed against the

licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contract pursuant to this section by the board or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

2. If the licensee desires review by the administrative hearing commission pursuant to subdivision (3) of subsection 1 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee.

344.060. 1. The director of the department of health and senior services shall appoint ten suitable persons who together with the director of the division of aging of the department of health and senior services shall constitute the "Missouri Board of Nursing Home Administrators" which is hereby created within the department of health and senior services and which shall have the functions, powers and duties prescribed by sections 344.010 to 344.100.

2. In addition to the director of the division of aging or [his] the director's designee the membership of the board shall consist of one licensed physician, two licensed health professionals, one person from the field of health care education, four persons who have been in general administrative charge of a licensed nursing home for a period of at least five years immediately preceding their appointment, and two public members. In addition to these qualifications, the physician, the two licensed health care professionals and the health care educator shall be citizens of the United States and residents of the state of Missouri for one year preceding their appointments. The four appointees who have been in general administrative charge of a licensed nursing home shall be citizens of the United States and either residents of the state of Missouri for one year preceding their appointments or persons who have been licensed by the board and whose five years of employment in a licensed

nursing home immediately preceding their appointment have occurred in the state of Missouri. The public members shall be citizens of the United States, residents of the state of Missouri for one year preceding their appointment and registered voters.

The public members shall be persons who are not, or never were, licensed nursing home administrators or the spouse of such persons, or persons who do not have or never have had a material, financial interest in either the providing of licensed nursing home services or in an activity or organization directly related to licensed nursing home administration. Neither the one licensed physician, the two licensed health professionals, nor the person from the health care education field shall have any financial interest in a licensed nursing home.

3. The members of the board shall be appointed for three-year terms or until their successors are appointed and qualified provided that no more than four members' terms shall expire in the same year. All members appointed prior to September 28, 1979, shall serve the term for which they were appointed. The governor shall fill any vacancies on the board as necessary. Appointment to fill an unexpired term shall not be considered an appointment for a full term. Board membership, continued until successors are appointed and qualified, shall not constitute an extension of the three-year term and the successors shall serve only the remainder of the term.

4. Every member shall receive a certificate of appointment; and every appointee, before entering upon his or her duties, shall take the oath of office required by article VII, section 11, of the Constitution of Missouri.

5. Any member of the board may be removed by the director of the department of health and senior services for misconduct, incompetency or neglect to duty after first being given an opportunity to be heard in his or her own behalf."; and

Further amend said title, enacting clause and intersectional references accordingly.